

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Christine Linke et al.
Application Number: 10/566,220
Filing Date: 01/26/2006
Group Art Unit: 3637
Examiner: Janet Marie Wilkens
Title: REFRIGERATION DEVICE HAVING A DOOR
SAFETY CATCH

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Pursuant to 37 CFR 41.41, Appellants hereby file a Reply Brief in the above-identified application.

STATUS OF CLAIMS

Claims 1–18, 24 and 37 are cancelled. Claims 19–23, 25–36, and 38–40 are pending in the applications. Claims 20, 26, 30 and 38–40 include patentable subject matter as most recently indicated in the September 3, 2010 Pre-Appeal Brief Conference Decision.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

(a) Whether claims 19, 21–23, 25, 27, 28, and 31–36 are anticipated by Anderson (U.S. Patent No. 2,385,961) under 35 U.S.C. § 102(b).

(b) Whether claim 29 is unpatentable over Anderson in view of Parera (U.S. Patent No. 3,733,749) under 35 U.S.C. § 103(a).

REPLY ARGUMENT

The Response to Arguments in the Examiner's Answer states that members 24 can be considered side walls of the door, indicating that these members act as barriers and form part of a housing for the latch and are located in the door. The Response to Arguments further state that the term "side wall" of a door is not limited to the exterior walls thereof, but can be applied to the walls inside the door itself; thus taking a broader view of the term than argued by Appellants.

Appellants respectfully submit that while the claims must be given the broadest reasonable interpretation, this is not the complete standard. MPEP § 2111 notes that the claims must be given their broadest reasonable interpretation *consistent with the specification*. The Federal Circuit elaborated on this standard by requiring that the broadest reasonable interpretation must be "in light of the specification as it would be interpreted by one of ordinary skill in the art" per *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). Accordingly, Appellants maintain that the sides 24 of the sheet metal housing of the latch of Anderson are not "walls" of a door as would be interpreted consistent with the present specification. Rather, these sides are not walls in that they do not form, with other walls, for example, defined space. Further, the grounds of rejection inherently acknowledge this in providing that "the members ...form part of a housing."

CONCLUSION

In view of the foregoing discussion, Appellants respectfully request reversal of the Examiner's rejections.

Respectfully submitted,

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